

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DERRICK DION PAIGE,

Plaintiff,

v.

DR. MICHAEL KOROSTENSKY,

Defendant.

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ORDER

Case No. 25-cv-92-jdp

On March 5, 2025, I entered an order assessing plaintiff Derrick Dion Paige an initial partial payment of \$161.96 in this case. Now plaintiff has filed request for the court to reassess the initial partial filing fee. Dkt. 7. I will deny the request without prejudice for the following reasons:

In 28 U.S.C. § 1915(b)(1), Congress established a formula to determine the filing fee for a federal civil action or appeal by a prisoner seeking leave to proceed *in forma pauperis*. The statute says, “The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of — (A) the average monthly deposits to the prisoner’s account; or (B) the average monthly balance in the prisoner’s account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.”

In calculating the initial partial payment in this case, I used the trust fund account statement that plaintiff submitted on March 3, 2025. I determined that the average balance was \$809.80, and the average deposits were \$363.73. Twenty percent of the greater of the two balances, \$809.80, is \$161.96. I will deny plaintiff’s motion to waive the initial partial

filing fee without prejudice, and I will give plaintiff an extension of time until April 7, 2025, to submit the \$161.96 initial partial payment.

For this case to proceed, plaintiff must submit this amount on or before April 7, 2025. If plaintiff does not have sufficient funds in a regular inmate account to make the initial partial payment, then plaintiff should arrange with prison officials to make the payment from a release account. However, prison officials will draw funds first from plaintiff's regular account and any portion of the initial partial payment remaining from plaintiff's release account. *Carter v. Bennett*, 399 F. Supp. 2d 936, 937 (W.D. Wis. 2005).

#### ORDER

IT IS ORDERED that:

1. Plaintiff Derrick Dion Paige's request for the court to reassess the initial partial filing fee is DENIED without prejudice.
2. Plaintiff may have an extension of time until April 7, 2025, to submit a check or money order payable to the clerk of court in the amount of \$161.96, or to submit an updated inmate account statement or other documentation that shows how his financial situation has changed.
3. If plaintiff fails to make the initial partial payment by April 7, 2025, or fails to show cause why the payment could not be made, then I will assume that plaintiff wishes to withdraw this case voluntarily. In that event, the case will be dismissed without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i). If plaintiff submits the initial partial payment within 30 days of dismissal, the case will be reopened. The court will not reopen the

case after 30 days unless plaintiff makes a showing that they are entitled to relief under Federal Rule of Civil Procedure 60(b).

Entered this 14th day of March, 2025.

BY THE COURT:

/s/  
ANDREW R. WISEMAN  
United States Magistrate Judge